

Senate Bill No. 1029

CHAPTER 307

An act to amend Section 8855 of the Government Code, relating to state government.

[Approved by Governor September 12, 2016. Filed with
Secretary of State September 12, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1029, Hertzberg. California Debt and Investment Advisory Commission: accountability reports.

Existing law establishes the California Debt and Investment Advisory Commission to, among other things, maintain contact with state and municipal bond issuers, underwriters, investors, and credit rating agencies to improve the market for state and local government debt issues and to assist state and local governments to prepare, market, and sell their debt issues. Existing law requires the commission to collect, maintain, and provide comprehensive information on all state and all local debt authorization and issuance and to serve as a statistical clearinghouse for all state and local debt issuance.

This bill would additionally require the commission to track and report on all state and local outstanding debt until fully repaid or redeemed.

Existing law requires the issuer of debt of state or local government to submit reports to the commission, within specified timeframes, of the proposed issuance of debt and of final sale, as provided.

This bill would require that the report of proposed debt include a certification by the issuer that it has adopted local debt policies, which include specified provisions concerning the use of debt and that the contemplated debt issuance is consistent with those local debt policies.

This bill would also require a state or local public agency to submit an annual report for any issue of debt for which it has submitted a report of final sale on or after January 21, 2017. The bill would require the annual report to cover a reporting period of July 1 to June 30, inclusive, and to include specified information about debt issued and outstanding and the use of proceeds from debt during the reporting period. The bill would require that the report be submitted within 7 months after the end of the reporting period by any method approved by the commission. The bill would require the commission to consult with appropriate state and local debt issuers and organizations representing debt issuers prior to approving any annual method of reporting pursuant to these provisions, as provided.

This bill would make various findings and declarations regarding its provisions.

The people of the State of California do enact as follows:

SECTION 1. The Legislature hereby finds and declares all of the following:

(a) California's 4,200 units of local government have issued \$1.5 trillion in debt since 1984. The California Debt and Investment Advisory Commission (CDIAC) was created in 1982 to provide information, education, and technical assistance on debt issuance and investments to local public agencies and other public finance professionals. Over the past three decades, CDIAC has emerged as a national thought leader in public finance.

(b) Nationally, there is approximately \$3.7 trillion of state and local government debt outstanding. Of all outstanding state and local government debt, approximately 75 percent is held by households and mutual funds owned predominantly by households. State governments, local governments, and their stakeholders benefit from better data about public debt. Transparency on public debt promotes better government and market integrity. It is in the interest of the people that state and local agencies utilize technological opportunities to provide transparency to the public.

(c) State and local agencies should adopt comprehensive written debt management policies pursuant to the recommendation of the Government Finance Officers Association, a professional organization of over 18,000 public officials united to enhance and promote the professional management of governmental financial resources. These policies should reflect local, state, and federal laws and regulations.

(d) It is the intent of the Legislature that all debt issuance of state and of local governments be published in a single, transparent online database that allows the citizens of California to analyze, interpret, and understand how debt authorized by the public is utilized to finance facilities and services at the state and local level.

SEC. 2. Section 8855 of the Government Code is amended to read:

8855. (a) There is created the California Debt and Investment Advisory Commission, consisting of nine members, selected as follows:

- (1) The Treasurer, or his or her designee.
- (2) The Governor or the Director of Finance.
- (3) The Controller, or his or her designee.

(4) Two local government finance officers appointed by the Treasurer, one each from among persons employed by a county and by a city or a city and county of this state, experienced in the issuance and sale of municipal bonds and nominated by associations affiliated with these agencies.

(5) Two Members of the Assembly appointed by the Speaker of the Assembly.

(6) Two Members of the Senate appointed by the Senate Committee on Rules.

(b) (1) The term of office of an appointed member is four years, but appointed members serve at the pleasure of the appointing power. In case

of a vacancy for any cause, the appointing power shall make an appointment to become effective immediately for the unexpired term.

(2) Any legislators appointed to the commission shall meet with and participate in the activities of the commission to the extent that the participation is not incompatible with their respective positions as Members of the Legislature. For purposes of this chapter, the Members of the Legislature shall constitute a joint interim legislative committee on the subject of this chapter.

(c) The Treasurer shall serve as chairperson of the commission and shall preside at meetings of the commission.

(d) Appointed members of the commission shall not receive a salary, but shall be entitled to a per diem allowance of fifty dollars (\$50) for each day's attendance at a meeting of the commission not to exceed three hundred dollars (\$300) in any month, and reimbursement for expenses incurred in the performance of their duties under this chapter, including travel and other necessary expenses.

(e) The commission may adopt bylaws for the regulation of its affairs and the conduct of its business.

(f) The commission shall meet on the call of the chairperson, at the request of a majority of the members, or at the request of the Governor. A majority of all nonlegislative members of the commission constitutes a quorum for the transaction of business.

(g) The office of the Treasurer shall furnish all administrative assistance required by the commission.

(h) The commission shall do all of the following:

(1) Assist all state financing authorities and commissions in carrying out their responsibilities as prescribed by law, including assistance with respect to federal legislation pending in Congress.

(2) Upon request of any state or local government units, to assist them in the planning, preparation, marketing, and sale of debt issues to reduce cost and to assist in protecting the issuer's credit.

(3) Collect, maintain, and provide comprehensive information on all state and all local debt authorization and issuance, track and report on all state and local outstanding debt until fully repaid or redeemed, and serve as a statistical clearinghouse for all state and local debt. This information shall be available to the public.

(4) Maintain contact with state and municipal bond issuers, underwriters, credit rating agencies, investors, and others to improve the market for state and local government debt issues.

(5) Undertake or commission studies on methods to reduce the costs and improve credit ratings of state and local issues.

(6) Recommend changes in state laws and local practices to improve the sale and servicing of state and local debts.

(7) Establish a continuing education program for local officials having direct or supervisory responsibility over municipal investments and debt issuance. The commission shall undertake these and any other activities

necessary to disclose investment and debt issuance practices and strategies that may be conducive for oversight purposes.

(8) Collect, maintain, and provide information on local agency investments of public funds for local agency investment.

(9) Publish a monthly newsletter describing and evaluating the operations of the commission during the preceding month.

(i) (1) The issuer of any proposed debt issue of state or local government shall, no later than 30 days prior to the sale of any debt issue, submit a report of the proposed issuance to the commission by any method approved by the commission. This subdivision shall also apply to any nonprofit public benefit corporation incorporated for the purpose of acquiring student loans. The commission may require information to be submitted in the report of proposed debt issuance that it considers appropriate. Failure to submit the report shall not affect the validity of the sale. The report of proposed debt issuance shall include a certification by the issuer that it has adopted local debt policies concerning the use of debt and that the contemplated debt issuance is consistent with those local debt policies. A local debt policy shall include all of the following:

(A) The purposes for which the debt proceeds may be used.

(B) The types of debt that may be issued.

(C) The relationship of the debt to, and integration with, the issuer's capital improvement program or budget, if applicable.

(D) Policy goals related to the issuer's planning goals and objectives.

(E) The internal control procedures that the issuer has implemented, or will implement, to ensure that the proceeds of the proposed debt issuance will be directed to the intended use.

(2) In the case of an issue of bonds the proceeds of which will be used by a governmental entity other than the issuer, the issuer may rely upon a certification by that other governmental entity that it has adopted the policies described in subparagraphs (C), (D), and (E) of paragraph (1), and references to the "issuer" in those subparagraphs shall be deemed to refer instead to the other governmental entity.

(j) The issuer of any debt issue of state or local government, not later than 21 days after the sale of the debt, shall submit a report of final sale to the commission by any method approved by the commission. A copy of the final official statement for the issue shall accompany the report of final sale. If there is no official statement, the issuer shall provide each of the following documents, if they exist, along with the report of final sale:

(1) Other disclosure document.

(2) Indenture.

(3) Installment sales agreement.

(4) Loan agreement.

(5) Promissory note.

(6) Bond purchase contract.

(7) Resolution authorizing the issue.

(8) Bond specimen.

The commission may require information to be submitted in the report of final sale that it considers appropriate. The issuer may redact confidential information contained in the documents if the redacted information is not information that is otherwise required to be reported to the commission.

(k) (1) A public agency, whether state or local, shall submit an annual report for any issue of debt for which it has submitted a report of final sale pursuant to subdivision (j) on or after January 21, 2017. The annual report shall cover a reporting period from July 1 to June 30, inclusive, and shall be submitted no later than seven months after the end of the reporting period by any method approved by the commission. Before approving any annual method of reporting pursuant to this subdivision, the commission shall consult with appropriate state and local debt issuers and organizations representing debt issuers for purposes that shall include, but not be limited to, making a proposed reporting method more efficient and less burdensome for issuers. The annual report shall consist of the following information:

(A) Debt authorized during the reporting period, which shall include the following:

- (i) Debt authorized at the beginning of the reporting period.
- (ii) Debt authorized and issued during the reporting period.
- (iii) Debt authorized but not issued at the end of the reporting period.
- (iv) Debt authority that has lapsed during the reporting period.

(B) Debt outstanding during the reporting period, which shall include the following:

- (i) Principal balance at the beginning of the reporting period.
- (ii) Principal paid during the reporting period.
- (iii) Principal outstanding at the end of the reporting period.

(C) The use of proceeds of issued debt during the reporting period, which shall include the following:

(i) Debt proceeds available at the beginning of the reporting period.

(ii) Proceeds spent during the reporting period and the purposes for which it was spent.

- (iii) Debt proceeds remaining at the end of the reporting period.

(2) Compliance with this subdivision shall be required for each issue of debt with outstanding debt, debt that has been authorized but not issued, or both, during the reporting period.

(3) The commission may, if technology permits, develop an alternate reporting method, provided that any alternate reporting method is in furtherance of the purpose of collecting the data required by this subdivision. Before approving any alternate annual method of reporting pursuant to this subdivision, the commission shall consult with appropriate state and local debt issuers and organizations representing debt issuers for purposes that shall include, but not be limited to, making a proposed reporting method more efficient and less burdensome for issuers.